

Mr. Chairman, in New Jersey, and all over the country, certain waste handlers and railroad companies have tried to exploit a supposed loophole in Federal law in order to set up unregulated waste transfer facilities.

Under the Interstate Commerce Commission Termination Act of 1995, the Surface Transportation Board, or STB, has exclusive jurisdiction over transportation by rail carriers and the ability to grant Federal preemption over other laws at any level, local, State or Federal, that might impede such transportation. But Congress intended such authority to extend only to transportation by rail, not to the operation of facilities that are merely sited next to rail operations or have a business connection to a rail company.

Unfortunately, certain companies have exploited this loophole to build or plan waste transfer stations next to rail lines and avoid any regulation from State or local authorities.

Mr. Chairman, I appreciate the Senate's efforts to close this loophole. They have passed an amendment in their version of the fiscal year 2008 Transportation, Housing and Urban Development appropriations bill, and I wanted to thank your subcommittee for recognizing this important issue in this bill's report language.

I had intended to offer an amendment, which I will not offer at this time, that would take the STB out of the waste management business by ensuring that funding for any decisions relating to waste transfer stations be eliminated. Again, you have dealt with this in the bill's report language, so it is not necessary to move this amendment at this time. But it is important that States and local municipalities have some say in this process.

Mr. OLVER. I yield to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. PATRICK J. MURPHY of Pennsylvania. Mr. Chairman, I want to add a word of my support of Mr. PALLONE's amendment. The issue of companies circumventing the law and the wishes of cities and towns in this Nation deserves to be addressed.

In my district, in Bensalem, Bucks County, Pennsylvania, a firm wanted to build a waste transfer station. Given the potential environmental and health risks, both the local community and even the State voiced their objections to the proposal. As an end run around this, the rail company that would service the proposed waste transfer facility applied to the Federal Surface Transportation Board, or the STB, to, in effect, have the waste transfer facility declared a rail facility. This was an attempt to supersede the rulings of the State and local entities that had already rejected the proposed waste transfer station. Fortunately, the rail company's application was rejected, but they can reapply to the STB at any time.

Just yesterday I stood with Bensalem Mayor Joe DiGirolamo and Pennsylvania State Representative Gene

DiGirolamo and opposed this facility. Mr. Chairman, people in the local, State and Federal level are all opposed to this end run around the law.

Mr. Chairman, when Congress created the STB, it was never intended to allow decisions by the STB to be used to override the wishes of cities and towns across the country, and certainly not as a means of superseding health and environmental regulations of State and local governments. Yet that is exactly what is happening.

Mr. Chairman, I want to thank the gentleman from New Jersey for his excellent leadership on this issue, and thank Chairman OLVER for providing me the opportunity to speak today and stand up for the residents of Bensalem and the Eighth District of Pennsylvania.

Mr. OLVER. To continue the colloquy, I yield to the gentleman from New York (Mr. HALL).

Mr. HALL of New York. Mr. Chairman, I wish to associate myself with the remarks of my colleagues from New Jersey and Pennsylvania. Communities in my home in New York, including the village of Croton-on-Hudson in my district, are also being threatened by companies who are hoping to exploit this loophole through the STB to process solid waste without facing regulation under environmental protection laws. This type of activity is clearly outside the mission and the purview of the Surface Transportation Board, and I look forward to working with my colleagues and chairman to affirm that reality.

I thank the chairman and the gentleman from New Jersey for their leadership and look forward to working as we go forward with you.

Mr. OLVER. Mr. Chairman, to respond to this, last night, as the gentleman from New Jersey has already pointed out, we had an amendment being offered which was subject to a point of order. I had agreed that I would be happy to work with him, and I obviously will be very happy to work with the three Members who are part of this colloquy from New Jersey, from Pennsylvania and from New York, on this issue, which is an important issue and would require authorization legislation to do, and that is why the point of order lay last night.

Mr. Chairman, I repeat, I will be happy to work with the three gentleman who have spoken on this issue as we go on toward conference.

AMENDMENT OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. Without objection, the Clerk will report the amendment.

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. \_\_\_\_\_. (a) LIMITATION ON USE OF FUNDS.—None of the funds in this Act shall be available for the National Forest Recreation Association in Woodlake, California.

(b) CORRESPONDING REDUCTION OF FUNDS.—The amount otherwise provided by this Act for "Department of Housing and Urban Development—Community Development Fund" (and specified for the Economic Development Initiative) is hereby reduced by \$50,000.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. I thank the Chair.

Let me first respond. I had yielded back my time when the gentleman from Wisconsin talked about Arizona, the Central Arizona Project as an earmark.

Perhaps in the debate at the time it was called an earmark, but it doesn't fit the contemporary definition of earmark. There was no project over the history of this body probably that wasn't debated through authorization, appropriation, followed up by oversight, than a project like that. I would have no complaint if some of the projects that we are challenging here today went through that process of authorization, appropriation and oversight, but that isn't what this is about.

The contemporary practice of earmarking that we have fallen into, under Republicans and Democrats, has been to circumvent the careful process of authorization, appropriation and oversight. So that is the complaint here. So bringing up the Central Arizona Project whenever an amendment is offered to take funding away from an economic development in a local community is a specious argument, I would add.

This amendment would prohibit \$50,000 in Federal funds from being used by the National Forest Recreation Association for the National Mule and Packer Museum and would reduce the cost of the bill by a consistent amount.

According to the earmark description and certification letter submitted to the Appropriations Committee, the funding would be used for the construction of a museum to memorialize and help to preserve the role of mule teams and mule packers in opening and developing the West.

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The funding, however, will go to the National Forest Recreation Association. Obviously, you cannot build much for \$50,000. I assume there is a partnership with local entities.

There is much that we don't know about this. Does the location exist? Will it be owned by the National Forest Recreation Association? Are there corporate sponsors? How much is the total cost of the museum? Will the Federal taxpayer be asked to pay more later on?

It seems there is a 20-mule team museum in Boren, California. This is at least the second mule and packer museum we know of. Does that one receive Federal funding?

I would simply say it is time for the American taxpayer to say "whoa" and